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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,431	01/15/2004	David Bowers	HILB/778	4098

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EXAMINER

NOVOSAD, JENNIFER ELEANORE

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 06/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,431

Applicant(s)

BOWERS ET AL.

Examiner

Jennifer E. Novosad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2004 and 17 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) 9-58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2004 and 21 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>08/25/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to the application filed January 14, 2005 and the election filed May 17, 2006.

Election/Restriction

Applicant's election without traverse of Group I, i.e., claims 1-8, in the reply filed on May 17, 2006 is acknowledged.

Thus, claims 9-58 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 4, and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The use of the phrase "may" in claims 1 and 4 renders the claim indefinite. *In particular*, what "may" be to one, "may not" be to another and thus the metes and bounds of the claims cannot be properly ascertained since one would not know whether the recitations proceeding the phrase "may" is being positively claimed/required.

Claim 7 is rendered indefinite since the structural orientation is unclear, i.e., it is unclear what dimension is 18 inches (e.g., --wide-- could be inserted at the end of line 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 790,440 (Klein '440) in view U.S. Patent No. 6,467,637 (Riga '637).

Klein '440 discloses a case comprising a base (including elements 3-10), a first display portion (including 11, 12, 17, 20, etc. - see Figure 3) mounted to the base; a second display portion (at 16, 25 - see Figure 2) mounted to the first display portion; *with respect to claims 2 and 3*, the first portion is four sided (see Figure 3, at top, bottom, left and right sides thereof) and the second portion is four sided; and *with respect to claim 6*, the base being four sided.

The claims differ from Klein '440 in requiring: (a) casket portions with each one mounted to one side (claims 2 and 4) of the first display portion and casket ornaments with four mounted to each side (claims 3 and 4) of the second display portion (claim 1); (b) the display having a height of 72 inches (claim 5); (c) each side of the base being 18 inches wide (claim 7); and (d) the ornaments to be casket shell corner ornaments (claim 8).

With respect to (a), Riga '637 teaches the use of casket portions and ornaments.

Thus, since the case of Klein '440 is capable of holding items other than the items specified therein, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have mounted casket portions and ornaments on each side of the portions,

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as called for in the claims, thereby increasing storage capabilities and capacity and allowing for ease to the consumer since the items can be viewed from multiple sides.

With respect to (b) and (c), although Klein '440 does not disclose the display and base having the specified dimensions, it would have been an obvious design choice to one of ordinary skill in the art at the time the invention was made to have fabricated the display and base having such dimensions for ease in economy and manufacture while allowing ease in use to the consumer since these dimensions would allow the consumer to view items at a proper height.

With respect to (d), it would have been obvious to one of ordinary skill in the art at the time the invention was made (i.e., the examiner takes official notice) to have utilized such specific items thereby increasing the types of items for sale and allowing ease in use to the consumer since the consumer can purchase all items needed from one location.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is 571-272-6832. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jennifer E. Novosad

Primary Examiner

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June 21, 2006